

## REMARKS/ARGUMENTS

### **I. 35 USC 102: Tadauchi**

Claims 61 and 68 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tadauchi (JP 410113088A). The Applicant respectfully disagrees.

It is well established that anticipation under 35 U.S.C. § 102 requires the presence in a single prior art disclosure of *each and every element of a claimed invention*. In our case, Claim 61 has been amended to recite, among other things: (1) a blanket sized and dimensioned to drape over a horse, and having flaps that fit around the horse's neck above a withers region and extending rearward fitted around a hindquarter region of the horse; and (2) the blanket having a flap sized and dimensioned and positioned to secure the blanket to at least one leg the horse. Tadauchi fails to teach limitations (1) and (2), and thus cannot be said to anticipate independent claim 61.

Moreover, claim 68 is allowable by virtue of its dependency upon claim 61.

### **II. 35 USC 103: Beeghly/Tadauchi**

The office rejected claims 61, 63, 65 and 67 under 35 U.S.C. § 103(a) as being unpatentable over Beeghly (US 5537954) in view of Tadauchi. The applicant disagrees.

Amended Claim 61 recites a temperature altering system having *inter alia* the following limitations: (1) a blanket sized and dimensioned to drape over a horse, and having flaps that fit around the horse's neck above a withers region and extending rearward fitted around a hindquarter region of the horse; and (2) the blanket having a flap sized and dimensioned and positioned to secure the blanket to at least one leg of the horse. In this case, even if Beeghly and Tadauchi are combined the resulting combination fails to provide the requisite teaching, suggestion, or motivation to practice the claimed combination.

Specifically, neither Tadauchi nor Beeghly individually or in combination teach, suggest, or motivate a flap positioned to secure the blanket to at least one leg of the horse. Tadauchi cannot be used to secure the head harness to the leg of horse while at the same time covering a horse's withers and hindquarters. Whereas, Beeghly may teach adjustable straps, elastic

members, VELCRO, etc, to provide some “fit adjustability” to the sweater. (C5/L23-26). However, Beeghly’s fit adjustability members are certainly not used to secure the sweater to the animal, let alone to the leg of an animal, but rather provide “fit adjustability” as the specification recites. Beeghly’s fit adjustability members cannot be read in isolation as the Examiner proposes, but rather in the context of the patent as a whole. In deed, in the very same paragraph, Beeghly’s specification teaches that the “garment 12 has provision for emergence of an animal head and neck 24, tail 26, and legs 28 ... including a substantially open under portion.” (C5/L31-34). Clearly, Beeghly contemplates a slip on sweater that may include some fit adjustability members for adjusting the snugness of the sweater.

Still further, neither Beeghly nor Tadauchi teach, suggest, or motivate a blanket sized and dimensioned to drape over a horse, and having flaps that fit around the horse’s neck above a withers region and extending rearward fitted around a hindquarter region of the horse. First, Tadauchi isn’t even a blanket, and cannot cover at the same time a horse’s withers and hindquarters. Second, it is true that Beeghly indicates that the sweater may be provided “to fit any of a variety of animals.” However, again the phrase “to fit any of a variety of animals” cannot read in isolation, but rather in the context of the patent as a whole. Here again, Beeghly specification goes on to recite “to fit any of a variety of animals, including dogs and cats of diverse breeds.” In addition, that passage must be read in conjunction with the fact that in the very same paragraph it states that “garment 12 has provision for emergence of an animal head and neck 24, tail 26, and legs 28, ... including a substantially open under portion” (C5/L19-22). Thus, Beeghly’s slip on sweater can not even be used on a horse. A person of ordinary skill in the art would appreciate that it would be virtually impossible to use a slip on sweater on a horse, and as such would not even consider Beeghly as a viable solution.

Moreover, Beeghly prevents an animal from being cold, by providing a heated pet sweater having a plurality of fixed pockets disposed on the exterior of the sweater. (Beeghly Spec. C5/L8-16). The crucial point here is that Beeghly’s device is a slip on sweater, a sweater that cannot even be used for horses. In addition, access to the pockets would be severely limited, as a result of the slip on nature of the device, and one of ordinary skill in the art would not have thought to combine the sweater of Beeghly with pockets disposed on an undersurface of the garment. Still further, there is no indication in Beeghly that the positioning of the pockets is

relevant, and therefore no teaching, suggestion, or motivation for one of ordinary skill in the art to use freely positionable pockets.

In this case, the examiner is merely stating that since Beeghly teaches an animal sweater having pockets, and Tadauchi teaches a horse harness having freely positionable pockets, that the claimed invention is obvious over the combination of Beeghly and Tadauchi. However, the examiner still has failed to point to a teaching, suggestion, or motivation to combine, and without such a showing the examiner has not established a case for *prima facie* obviousness. Moreover, even if Beeghly and Tadauchi were combined the resulting combination still fails the claimed invention as recited in independent claim 61.

Claims 63, 65 and 67 are allowable (among other things) by virtue of their dependency upon allowable claim 61.

#### **35 USC 103: Beeghly/Tadauchi/Newman**

The office rejected claims 62, 66, and 69 under 35 U.S.C. § 103(a) as being unpatentable over Beeghly, as modified by Tadauchi, as applied to claim 61 above, and further in view of Newman (US 5271211). These rejections should be withdrawn because Beeghly and Tadauchi have been improperly combined, the references individually or in combination fail to teach, suggest, or motivate the invention as recited in independent claim 61 as discussed above, and Claims 62, 66, and 69 are allowable by virtue of their dependency upon allowable claim 61.

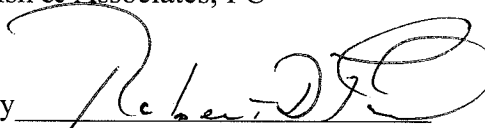
#### **35 USC 103: Beeghly/Tadauchi/Fazio**

The office rejected claim 64 under 35 U.S.C. § 103(a) as being unpatentable over Beeghly as modified by Tadauchi as applied to claim 61 above, and further in view of Fazio (US 6443101). This rejection should also be withdrawn because Beeghly and Tadauchi have been improperly combined, the references individually or in combination fail to teach, suggest, or motivate the invention as recited in independent claim 61 as discussed above, and claim 64 is allowable by virtue of its dependency upon allowable claim 61.

#### **Request For Allowance**

Claims 61-71 are pending in this application. The applicant requests allowance of all pending claims.

Respectfully submitted,  
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